

### Remarks

Claims 1-6, 8, 10-13, 19-24, and 27-33 are pending with this Application. Claims 7, 9, 14-18 and 25-26 were previously cancelled without prejudice. In the Office Action mailed November 1, 2007, at paragraph number 3, the Examiner objected to the disclosure for including two of Table 12 on page 33. With this paper, Applicants respectfully enter amendments to the specification to correct the typographical error and to address matters of form. No new matter has been incorporated with such amendments. Applicants respectfully request entry of the amended paragraphs [0014] and [0016].

In paragraph number 4, the Examiner stated that the Application included three inventions identified as:

Group I. Claims 1-6, 8, 10-13, 19-23 directed to a walled microsphere of aluminosilicate, classified in class 428, subclass 428;

Group II. Claims 24 and 27, directed to microspheres, classified in class 501, subclass 11;  
and

Group III. Claims 28-33, directed to a mixture (formulation), classified in class 252, subclass 183.16.

Applicants submit that the classification of Group I and Group II inventions as identified above appears arbitrary and an explanation is respectfully requested as to how such a classification was arrived at.

Applicants point out that Group I claims, as claimed, are microspheres that are "synthetic . . . comprising an aluminosilicate material . . . wherein the microspheres comprise 12.8 wt.% to 40 wt.% aluminum oxide." Moreover, the Examiner states, as written above, that the Group I invention is microspheres of aluminosilicate. Applicants also point out that Group II claims, as claimed, are "synthetic microspheres comprising: 12.8 wt.% to 40 wt.% aluminum oxide. . . wherein the synthetic microspheres are formulated with aluminosilicate particles."

Applicants cannot then understand how Group I claims became classified as “Stock Material or Miscellaneous Articles” (Class 428), “Composite (nonstructural laminate). . . next to another silicon containing layer” (Subclass 428). There is no explanation as to why such claims, as written, would be classified as a nonstructural laminate next to another silicon containing layer. Applicants respectfully request factual evidence and reasoning for making such a determination and classification.

Of further interest is that Group II claims that are formulated with aluminosilicate particles are classified as “Ceramic Compositions” (Class 501), “Glass compositions, compositions containing glass other than those wherein glass is a bonding agent or glass batch forming composition” (Subclass 11).

To move prosecution forward, Applicants provisionally elect Group I claims with traverse. Applicants again respectfully request an explanation as to how classification was determined and submit that Group I and Group II inventions, having overlapping compositions and ranges, are not unrelated. Moreover, the Examiner has not shown that Group I and Group II inventions have different designs or modes of operation or effects, which is a requirement to assert that the claims are independent (i.e, unrelated). MPEP 802.01 states that inventions are related if they are connected in at least one of design (e.g., structure or method of manufacture), operation (e.g., function or method of use) or effect. The Examiner states that the Group I and Group II are not disclosed as capable of use together and they have different effects. Applicants submit that there is no support for such a statement in view of the as-filed specification. Applicants respectfully request that the Examiner point specifically to where, in the as-filed application, such information is disclosed. Applicants submit that, as disclosed, Group I and Group II claims are related. Applicants respectfully submit that the Examiner needs to show specific evidence in the disclosure to support an alternative suggestion.

Applicants also submit that in accordance with MPEP 803, “If the search and examination of all the claims in an application can be made without serious burden, the examiner

must examine them on the merits, even though they include claims to independent or distinct inventions.” Applicants submit that the Examiner has already admitted on the record that examination of all claims in the as-filed application can be made without a serious burden because the Examiner has performed several searches of the claims during prosecution of the subject application. In addition, none of the pending claims are newly entered or were newly entered after the filing date of August 25, 2003. To this end, Applicants respectfully request that, should one be performed, that the Examiner continue to perform any new search on all pending claims. With this reply, no new matter and no new issues requiring further consideration and/or search have been introduced.

### **Conclusion**

In light of the remarks presented with this Amendment, Applicants respectfully submit that the pending claims provided in the Listing of Claims beginning on page 5 of this paper are in condition for allowance. Accordingly, favorable consideration for and allowance of all claims are respectfully requested.

This response is being filed with a Petition for Extension of Time for two months and the appropriate fees. No additional fees are believed due with this paper. To the extent that any further fees are required during the pendency of this Application, including petition fees, the Commissioner is hereby authorized to charge payment of any additional fees, including, without limitation, any fees under 37 C.F.R. § 1.16 or 37 C.F.R. § 1.17, to Deposit Account No. 07-0153 of Gardere Wynne Sewell LLP and reference Attorney Docket No. 129843-1099.

In the event that any additional time is needed for this filing, or any additional time in excess of that requested in a petition for an extension of time, please consider this a petition for an extension of time for any needed extension of time pursuant to 37 C.F.R. § 1.136 or any other section or provision of Title 37. Applicants respectfully request that the Commissioner grant any such petition and authorize the Commissioner to charge the Deposit Account referenced above. Please credit any overpayments to this same Deposit Account.

Should the Examiner have questions, comments, or suggestions in furtherance of the prosecution of this Application, please contact Applicants' representative at 214-999-4330. Applicants, through their representative, stand ready to conduct a telephone interview with the Examiner to review this Application if the Examiner believes that such an interview would assist in the advancement of this Application and/or place the application in condition for allowance.

This is intended to be a complete response to the Office Action mailed on November 1, 2007.

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Customer No. 60148

AMENDMENT  
Application No. 10/648,184

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**Please direct all correspondence to the practitioner listed below at Customer No. 60148.**

Respectfully submitted,



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